

Remarks

This paper is filed in response to the Decision on Appeal of September 4, 2009 reversing the prior rejections and entering new rejections based on 35 U.S.C. §112. Although Assignee does not concede the factual and legal conclusions in the Board's decision, Assignee elects at this stage to reopen prosecution to introduce new evidence and amendments to the claims as rejected, along with amendments to the specification.

Amendments to the Specification

The title has been amended to substitute a more descriptive title for the present application.

New paragraphs [0036.1] and [0036.2] have been added based on the incorporation by reference of the '870 application and do not constitute new matter. Although the '870 application was referenced generally on the first page of the present specification, the '870 application was also specifically integrated into the present application in the text, including at paragraph [0036] which noted the description in the '870 application of a method for discovering a root directory. New paragraphs [0036.1] and [0036.2] correspond to col. 2, lines 27-55 of U.S. Patent No. 7,263,534, which issued from the '870 application.

New paragraphs [0039.1] and [0039.2] have been added based on the incorporation by reference of application 10/689,860 and do not constitute new matter. Although the '860 application was referenced generally on the first page of the present specification, the '860 application was also specifically integrated into the present application in the text, including at paragraph [0039] which noted the description in the '860 application of a method for implementing cross-protocol mappings.

Amendments to the Claims and the New Rejections Under 35 U.S.C. §112

In the new grounds of rejection, claims 1 – 31 were rejected under 35 U.S.C. §101 as allegedly directed to unpatentable subject matter. Claims 1-31 were rejected under 35 U.S.C. §112 as not enabled and as indefinite due to lack of enablement. Additionally, the Board decision referred to the invention as a “concept” invention, apparently as a basis for the §112 rejection (see page 8) and to use of the term “paradigm” (even though that words did not and does not appear in the claims) in making the §101 rejection (see page 5).

Claims 1 – 19 and 21 – 31 have been cancelled. Claim 20 has been amended and new claims 32 – 41 have been added to more clearly present the previously-claimed subject matter in a matter that complies with §§101 and 112. If the §§101/112 rejections are maintained based on the “concept” and “paradigm” grounds and reasoning, Assignee respectfully requests that the Patent Office set forth controlling law for determining what a “concept” invention is, law for evaluating patentability thereof, and/or the basis for reading the term “paradigm” into the claims.

Claim 20

Claim 20 has been amended to more clearly set forth the subject matter, namely the interface behavior previously claimed. Regarding the §101 rejections, claim 20 now explicitly refers to actions of a particular machine, a computing system, that transforms underlying data to provide output. Regarding the §112 rejections, coding techniques for controlling placement and appearance of windows are known to those of skill in the art, and so one of skill in the art, upon review of the present specification, would have been able to configure a computing system to perform as recited in amended claim 20. Examples of how the windows would be presented are found at pages 8-9 and discussions of support for the underlying functionality of the page editor is discussed below.

New Claims 32-41

New independent claims 32 and 37 are based on claim 1. Claim 32 is written in system form and claim 37 is in method form; both clearly indicate that Assignee is claiming subject matter eligible for patent protection under §101 and not a “paradigm” or “concept” as the claims were characterized in the Board Decision. Specifically, claim 32 is directed to a particular machine, particularly a computing system as configured by a page editing application. Claim 39 is directed to a process tied to a particular machine that transforms a web page from a first, unedited state, to a second, edited state, based on input received via the machine (a computing system) along with changing the state of a file transfer server in the process of uploading files.

Claims 32 and 37 and their dependent claims are enabled by the specification. Assignee respectfully asserts that one of skill in the art, upon review of the present specification, would be able to make and use a computing system as claimed and configured in claims 32-41 and thus the §112 rejections should thus be inapplicable to new claims 32 – 41.

No skill level was proposed in the Board’s decision. For purposes of this explanation, one of skill in the art is assumed to be a software developer or engineer, particularly an engineer familiar with writing applications/components in at least one programming language, experience or knowledge regarding how to develop and use applications for one or more operating environments, and experience in developing applications related to web page development.

Claim 32 recites a computing system executing a page editing application that configures the computing system to:

- present a web browsing interface in a page editing application and access a page in response to input identifying the page in a desired web site;

- in response to input selecting an edit command in the web browsing interface, present a page editing interface in the page editing application and receive input editing the web page; and
- in response to input selecting a publish command in the page editing interface, upload the page as edited to a file transfer protocol server.

Independent claim 37 features similar language to claim 32. Figure 5 depicts a computer including a page editor configured to support a browse mode, an edit mode, and a publish mode. Assignee respectfully notes that one of skill in the art would be able to configure a computing system to execute “an application” in general, as computers and programming are well-known to those of skill in the art.

Still further, as indicated in paragraph [0005] of the “Background of the Invention” section, both (1) separate web development environments that allow editing of web pages and publishing of the web pages in response to input of information regarding file locations, FTP and other protocols, and (2) given such information, management of upload and download are within the abilities of one of ordinary skill in the art. Browse-edit functionality is known to those of skill in the art from web development environments such as Netscape Composer noted in paragraph [0010].

Typically, software applications are defined in terms of operational concepts and desired functionality. Therefore, although the specification does not include detailed code listings or blueprints for implementing a computer as configured by software as claimed in claims 32 and 37, Assignee respectfully asserts that such detail would not be needed by a software developer after review of the specification. Rather, it would be within the ability of one of ordinary skill in

the art to implement a page editor with the recited functionality after review of the present specification.

Certain of the components would be known to a software developer, while other components and functionality could be implemented based on the functional descriptions in the specification. The software developer could use his or her skill in integrating existing components and writing code to provide the desired functionality.

For example, as noted at paragraph [0023], the specification states that the browser can include the “typical” browser functionality. Editing can be achieved in some embodiments by presenting an editing window over the browser window 500, giving the impression that one window morphed into another. One of skill in the art would be capable of using knowledge of operating system and other commands for controlling window placement and appearance to achieve this effect after reading the description of the desired result.

As noted at paragraph [0014], the ability to map edited files and dependents to and from a local computer and between a web server and file transfer server is used to enable the various portions of a web site management “lifecycle” (download, edit, automatically publish) from a single page editor. Examples of implementing these aspects are found in the related applications 10/689,870 and 10/689,860 incorporated by reference, which were specifically integrated into the specification at pages 7, 8, 26, 10, 11, 12, and 13, and material now explicitly included in the present specification after the amendment above. One of skill in the art could, after review of those applications, write code to provide the desired features and write code to integrate those features with a browser and editor.

With regard the dependent claims, paragraphs [0029]-[0030] at page 10 describe identifying page-dependent files, such as images stored separately from a web page file and links

to sources of dynamically-generated content. As noted therein, the target web page can be scanned and the underlying source file and page dependent files can be downloaded for editing or deletion. After editing, the source file for the edited web page can be scanned again to check for changes to page-dependent files. Again, this functionality could be implemented by one of skill in the art by writing suitable code based on the desired outcome as described in the specification.

Conclusion

In view of the foregoing, Assignee respectfully asserts that the claims as amended find support in the specification and comply with 35 U.S.C. §112 in terms of enablement and definiteness and are directed to patentable subject matter under 35 U.S.C. §101.

While no additional fees are believed due, the Commissioner is hereby authorized to charge any additional fees and credit any refund to Deposit Account No. 11-0855. If there are any issues that can be resolved via a telephone conference, the Examiner is invited to contact the undersigned directly at 404.745.2447

Respectfully submitted,

Date: November 3, 2009

/Eric G Zaiser/

Eric G. Zaiser
Reg. No. 58,352

KILPATRICK STOCKTON LLP
1100 Peachtree St. NE
Atlanta, GA 30309
404.745.2447 (voice)
404.541.3290 (fax)